

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7638

BILL NUMBER: HB 1605

NOTE PREPARED: Feb 17, 2005

BILL AMENDED: Feb 15, 2005

SUBJECT: Professional Employer Organizations.

FIRST AUTHOR: Rep. Walorski

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill requires registration and regulation by the Department of Insurance (DOI) of a professional employer organization (PEO). The bill specifies certain requirements for conduct with respect to functions of a professional employer organization.

Effective Date: July 1, 2005.

Explanation of State Expenditures: (Revised) The DOI would oversee the registration and regulation of a PEO. Although the number of PEOs that would require registration is not known, if a significant number apply for registration, the DOI would need an additional COMOT II to implement the program. Total additional staffing costs are estimated at \$37,345, which includes fringe benefits and indirect costs. The source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

The bill provides that a PEO must maintain a minimum net worth of \$100,000 or a bond. The bond must be held by a depository designated by the DOI. This provision is not expected to have a great impact on DOI expenditures.

The DOI may adopt rules to implement the program and must adopt rules to specify fees. The DOI should be able to promulgate rules given its current level of budget and resources.

Explanation of State Revenues: A PEO must pay an initial registration fee under IC 27-16-3-2 not to exceed \$500. Upon the filing of an annual renewal of a registration, a PEO must pay a renewal fee not to exceed \$250.

A PEO seeking registration under IC 27-16-3-7 must pay an initial and annual fee not to exceed \$250. Upon initial application for limited registration and upon each annual renewal of the limited registration, a PEO must pay a fee not to exceed \$250. The bill also provides for penalty fees of \$250 per day for the first 10 days for failure to file a timely annual report, with a \$500 fine for every day thereafter. Fees collected must be deposited in the Department of Insurance fund.

Tax Credits. For purposes of determination of tax credits and other economic incentives provided by the state or another governmental entity and based on employment, a covered employee is considered an employee solely of the client. A client is entitled to the benefit of any tax credit, economic incentive, or other benefit arising as the result of the employment of a covered employee of the client. In the case of tax imposed or calculated upon the basis of total payroll, a PEO is eligible to apply a small business allowance or exemption available to the client for covered employees for the purpose of computing the tax.

Penalty Provision. Violators commit a Class B misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: *Penalty Provision.* A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Penalty Provision.* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: DOI.

Local Agencies Affected: All..

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